



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 5377-99

15 February 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 8 February 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Navy on 18 October 1978 at the age of 19. Your record reflects that on 30 May 1979 you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty. The punishment imposed was restriction and extra duty for seven days.

Your record further reflects that on 23 January 1980 you were convicted by special court-martial (SPCM) of two incidents of failure to go to your appointed place of duty, four periods of unauthorized absence (UA) totalling 18 days, six incidents of wrongful appropriation of government property, carrying a concealed weapon, and housebreaking. You were sentenced to confinement at hard labor for three months, forfeitures totalling \$1,196, and bad conduct discharge (BCD). The BCD was suspended for six months. On 23 May 1980 you received NJP for two incidents of failure to go to your appointed place of duty and five incidents of disobedience. The punishment imposed was forfeitures totalling \$350 and an oral reprimand. On 13 and 27 June 1980 you received NJP for failure to go to your appointed place of duty and disobedience.

During the period from 28 May 1981 to 25 February 1983 you received NJP on three more occasions for absence from your appointed place of duty, wrongful possession of hashish, and wrongful use of marijuana.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to drug abuse. You waived your rights to consult with legal counsel or to present your case to an administrative discharge board. You did, however, submit a written statement in rebuttal to the discharge. On 26 March 1983 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge. On 1 April 1983 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your desire to have the other than honorable discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given your serious and frequent misconduct. Given all the circumstances of your case, the Board concluded your discharge was proper as issued and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director